

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

RICK PARR and SUSAN PARR,)	
)	
Plaintiffs,)	
)	
v.)	No. 3:08-cv-145
)	(Phillips)
PIGEON FALLS LEISURE LAND, LLC;)	
IRA GROSSMAN; GAIL WILSON;)	
WEICHERT REALTORS; and)	
DONALD BUSHA,)	
)	
Defendants.)	

ORDER

On May 30, 2008, plaintiffs filed an amended complaint, in which they sought to change the defendants in this action. Defendant Pigeon Falls Leisure Land, LLC was apparently incorrectly named, and plaintiffs seek instead to name Riverwalk Hills Townhomes, LLC as a defendant. This purported amendment, however, is invalid.

First, defendant Donald Busha had already filed his responsive pleading, and therefore under Rule 15 plaintiffs must seek leave of court to amend the complaint. Fed. R. Civ. P. 15(a)(1)-(2) (allowing amendment once as a matter of course before being served with a responsive pleading where a responsive pleading is allowed; requiring in all other cases leave of court or opposing party's written consent); Fed. R. Civ. P. 5(b)(2)(E) (electronic service is complete upon transmission); E.D. TN. LR 5.2(d) (authorizing electronic service under Fed. R. Civ. P. 5(b)(2)(E) by generation of Notice of Electronic Filing on this court's Electronic Case Filing System

(CM/ECF)).¹

Furthermore, plaintiffs only refiled that portion of the complaint which they sought to amend and incorporated by reference all allegations against Pigeon Fall Leisure Land, LLC. Local Rule 15.1, however, provides as follows:

A party who moves to amend a pleading shall attach the original and one copy of the amendment to the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, shall, except by leave of court, reproduce the entire pleading as amended and may not incorporate any prior pleading by reference.

E.D. TN. LR 15.1 (emphasis added).

Accordingly, plaintiffs' amended complaint [Doc. 6] is **STRICKEN** from the record. Absent the opposing parties' written consent, plaintiffs must seek leave of court under Rule 15(a)(2) to amend their complaint. Further, in seeking such leave, plaintiffs are instructed to comply with Local Rule 15.1 governing the form of a motion to amend a pleading.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge

¹ The docket reflects that Defendant Busha filed his answer at 3:18 PM EDT on May 30, 2008, and plaintiffs filed their amended complaint at 3:59 PM EDT on May 30, 2008. Notices were delivered at that time to plaintiffs' counsel.